

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>CURTIS & MARYANNE MARTIN</p> <p>v.</p> <p>Respondent:</p> <p>LARIMER COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 51969</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on May 7, 2010, Diane M. DeVries and James R. Meurer presiding. Petitioner, Ms. Maryanne Martin appeared pro se. Respondent was represented by William G. Ressue, Esq. via phone. Petitioners are protesting the 2009 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**1711 Jacob Road, Estes Park, Colorado
(Larimer County Schedule No. R0548430)**

The property consists of a cabin and three outbuildings on ±17.6 acres located in Larimer County, approximately six miles southeast of the Town of Estes Park, Colorado. The cabin is considered to have seasonal use, was constructed in 1920, and contains 375 square feet. In addition there is a 1,330 square foot barn, a 360 square foot bunkhouse, and a 156 square foot shed, all constructed in the late 1800's. Overall, condition of the improvements is considered to be fair to average. All utilities are available to the property and zoning is RE-1. The property is classified as residential by Larimer County.

The property is encumbered by a conservation easement executed on April 12, 2000. This easement reserves development on the subject acreage to two, single family structures contained within two, five acre building envelopes. More specifically, the easement reserves the right to reconstruct, improve, and enlarge the existing cabin, as well as construct a new single family residence. The beneficiary of the easement is the Estes Valley Land Trust.

Petitioners presented an indicated value of \$280,000.00 for the subject property.

Ms. Martin testified that the comparables used by Respondent in their analysis did not accurately reflect the value of the subject, especially considering the terms and restrictions of the conservation easement. Petitioners submitted two comparables; however, these properties were not sales, did not include easements, and were submitted based on an equalization analysis with the subject. In addition, Ms. Martin submitted an appraisal dated April 12, 2000 performed for conservation easement purposes. This appraisal reflected a value for the subject “as encumbered by granting the Conservation Easement” of \$280,000.00. No updated appraisal was submitted.

Petitioners are requesting a 2009 actual value of \$280,000.00 for the subject property.

Respondent’s witness, Mr. Greg Daniels presented two comparable sales to support his opinion of market value. The sales were vacant land parcels and were encumbered by conservation easements. The sales ranged in price from \$498,095.00 to \$575,000.00 prior to any adjustments, and from \$590,495.00 to \$688,500.00 after adjustments. Major adjustments to the sales were for buildable site acreage and vertical improvements (e.g. cabin, barn, etc). Mr. Daniels testified that after adjustments, the comparables reflected a reconciled value that exceeded the assigned value of \$351,000.00.

Respondent assigned an actual value of \$351,000.00 to the subject property for tax year 2009.

Petitioner did not present sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2009. The Board bases this conclusion on the fact that no sales within the base period were submitted by Petitioners to support the opinion of value. The Board recognizes that the subject property is encumbered by a conservation easement; however, the comparable sales utilized by Respondent’s witness are encumbered by conservation easements. Relative to equalization with other properties, by state statute the Board must value residential property using the market approach to appraisal which considers sales of comparable properties. The Board can consider an equalization argument as support for value once value for the equalization comparables has been supported using the required approaches to value.

After careful consideration of the testimony and exhibits presented in the hearing, the Board agrees that Respondent’s assigned value accurately reflects a reasonable market value for the subject.

ORDER:

The petition is denied.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

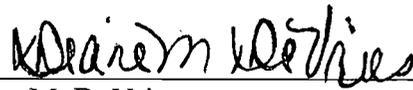
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

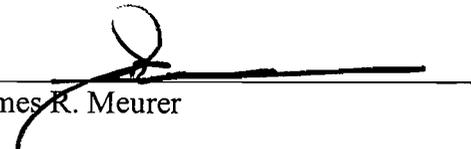
Section 39-8-108(2), C.R.S..

DATED and MAILED this 1st day of June 2010.

BOARD OF ASSESSMENT APPEALS

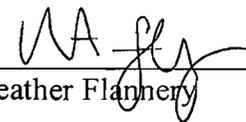


Diane M. DeVries



James R. Meurer

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.



Heather Flannery